

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION
NO. 1:21-cv-02965-TWP-MPB

A.C.)
)
 Plaintiff)
)
 -vs-)
)
 METROPOLITAN SCHOOL DISTRICT)
 OF MARTINSVILLE, et al.)
)
 Defendants)

The 30(b)(6) DEPOSITION OF THE DEFENDANTS
UPON ORAL EXAMINATION OF
FRED KUTRUFF

The 30(b)(6) deposition of the Defendants
upon oral examination of FRED KUTRUFF, a witness
produced and sworn before Kathleen Andrews,
Notary Public in and for the County of Hamilton,
State of Indiana, taken on behalf of the Plaintiff
via Zoom Videoconference at 1:00 p.m. on
January 13, 2022, pursuant to the Federal Rules
of Civil Procedure.

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EXAMINATION

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1 FRED KUTRUFF, the witness herein,
2 having been first duly sworn to tell the truth,
3 the whole truth, and nothing but the truth,
4 testified as follows:

5 EXAMINATION,

6 QUESTIONS BY MR. FALK:

7 Q. Sir, could you state your name for the court
8 reporter, please.

9 A. Fred Kutruff. K-U-T-R-U-F-F-as-in-Fred.

10 Q. And you are the principal of the Wooden Middle
11 School, John R. Wooden Middle School in
12 Martinsville, Indiana; is that correct?

13 A. Yes.

14 Q. And have you ever been in a deposition before?

15 A. No.

16 Q. Do you feel lucky, or that your luck has just run
17 out, or it's just a new experience?

18 A. I think I got the short straw.

19 Q. Well, as your attorney undoubtedly told you, a
20 deposition is just an asking and answering of
21 questions under oath. There is no judge here, but
22 everything you say is being taken down and can be
23 used in the court proceeding that we find ourselves
24 in. Do you understand that?

25 A. Yes.

1 Q. Because this is all being transcribed, we have to
2 make sure that we respond audibly, we don't talk
3 over each other, and try and do things so that the
4 court reporter does not start tearing her hair out.
5 Is that fair?

6 A. Yes.

7 Q. If at any point you don't understand my question,
8 if I'm not making sense, or if I'm talking too
9 fast, let me know. Otherwise, I'll assume if you
10 answered the question, you understand it. Is that
11 okay?

12 A. Yes.

13 Q. If at any point you want to take a break, either to
14 talk to your attorney or just to take a break, you
15 are free to say I want to take a break. The only
16 point is I would have you answer the question
17 that's pending before you before we take a break.
18 Okay?

19 A. (Nodding head.)

20 Q. Yes?

21 A. Yes.

22 Q. You have to respond audibly, and I will try to do
23 so as well.

24 (Exhibit 1 introduced into the record.)

25 Q. I'm showing you what's been marked as Exhibit 1 to

1 this deposition. Do have you that before you?

2 A. Which? I've got --

3 Q. It's the deposition notice that you would have
4 gotten.

5 A. Yes.

6 Q. Okay. And you are the principal of the John R.
7 Wooden School; is that correct?

8 A. Correct.

9 Q. And this deposition notice asks that the defendants
10 in this case, that includes the Metropolitan School
11 District and the principal in his official
12 capacity, designate one or more people to answer
13 questions on the topics presented in the
14 deposition. Is that your understanding?

15 A. Yes.

16 Q. And you are the person who, as you so eloquently
17 put it, drew the short straw; is that correct?

18 A. Yes.

19 Q. Okay. So I'm going to assume that you are
20 testifying not just for yourself, but also the
21 principal in his official capacity, as well as the
22 school district. Is that fair?

23 A. Yes.

24 Q. And in the deposition notice, Exhibit 1, I asked
25 that certain documents be produced, and your

1 attorney has turned over documents to me. Is it
2 your understanding that aside from some matters
3 that were excluded because of attorney-client
4 privilege, that you have provided all the documents
5 that you are aware of that are responsive to the
6 request in Exhibit 1?

7 A. Yes.

8 Q. And how long have you been principal at the school?

9 A. I've been assistant principal I think since 2013
10 or, excuse me, '13/'14, and became the principal in
11 August of 2021.

12 Q. Okay. And do you have a master's in education or
13 in supervision of some sort?

14 A. Yes. I have a master's in education and a
15 principal's license.

16 Q. Is the master's your terminal degree? Have you
17 gone any further past the master's?

18 A. No.

19 Q. And when and where did you get your master's?

20 A. Indiana Wesleyan University.

21 Q. And when?

22 A. Oh, that's a good question. You are asking me to
23 go back a ways. 2004. I don't know that.

24 Q. That's fine.

25 A. I'm going to guess.

1 Q. That is perfectly fine. And how long have you been
2 with Martinsville School District?

3 A. Since 2007.

4 Q. And before becoming assistant principal, what
5 positions did you have?

6 A. I've been the head football coach. I was assistant
7 athletics director. I was assistant principal of
8 the high school, and then moved to the middle
9 school I believe seven years ago.

10 Q. And the school district, Martinsville, MSD
11 Martinsville -- and if it's okay with you I'm just
12 going to call it Martinsville; is that fair?

13 A. Yes.

14 Q. Martinsville receives federal funding; is that
15 correct?

16 A. Yes.

17 Q. Have you read the complaint in this case, the
18 document that started the case?

19 A. Well, I've read quite a few, so I believe so.

20 Q. Okay. But you're aware of what the case is about
21 generally; is that correct?

22 A. Yes.

23 Q. And you obviously, well, I shouldn't say that, but
24 I assume you know the plaintiff, who we refer to as
25 A.C.?

1 A. Yes.

2 MR. FALK: And, Phil, before we started the
3 court reporter asked me about the name, and she
4 will put everything in as A.C. So if some of us
5 slip, that's perfectly fine, but I will try not to
6 slip. But if I do or you do, it's fine.

7 MR. ZIMMERLY: Okay.

8 Q. And A.C. is currently a seventh grader at your
9 school; is that correct?

10 A. Yes.

11 Q. And does the Wooden Middle School just have seventh
12 and eighth grades in it, or is it sixth, seventh
13 and eighth?

14 A. Seventh and eighth grade building.

15 Q. About how many students are in the school?

16 A. Last count, 676, I believe.

17 Q. And it's split roughly evenly between the two
18 grades, I assume?

19 A. Pretty close, yes.

20 Q. And you're aware that A.C. in his complaint or in
21 this lawsuit states that he is transgender?

22 A. Yes.

23 Q. And you are aware of that term; is that correct?

24 A. Yes.

25 (Exhibit 2 introduced into the record.)

1 Q. And I note that if you take a look at Exhibit 2,
2 which are all the documents that I somewhat lazily
3 made one exhibit, at page 17 --

4 A. Let me get to it.

5 Q. Okay. No problem.

6 A. Okay.

7 Q. At pages 15 and 17.

8 A. Are you talking, referring about the emails?

9 Q. Yes. I'm sorry. I said page numbers. There's a
10 Bates stamp at the bottom of each one. There is an
11 email on page 15 from Doug Reynolds to staff. Do
12 you see that?

13 A. Yes.

14 Q. And then I said page 17, which is the same email
15 that apparently he sent to you first.

16 A. Yes.

17 Q. Okay. And we'll talk about that email in a little
18 bit, but in that email Mr. Reynolds talked about
19 students who identify differently from their birth
20 sex. Do you see that in the second line?

21 A. Yes.

22 Q. And is that a pretty good definition, as far as
23 you're concerned, about transgender persons who
24 have a gender identity that differs from their sex
25 at birth?

1 MR. ZIMMERLY: I'm going to make an objection.

2 The term, transgender, is vague and ambiguous and
3 can mean a lot of things to a lot of different
4 people. But with that objection, you can answer.

5 A. Yes.

6 Q. Okay. And the complaint in this case also alleges
7 that A.C. has been diagnosed with gender dysphoria.
8 Are you aware of that?

9 A. I have not seen any medical records regarding that.

10 Q. Are you aware that he says he has, or the complaint
11 or the lawsuit alleges that he's been diagnosed
12 with gender dysphoria?

13 A. I read that in the complaint.

14 Q. And you understand gender dysphoria to be a
15 condition that transgender people have where there
16 is a conflict between their gender identity and
17 their sex assigned at birth; is that correct?

18 A. Yes.

19 Q. In this case you are aware that A.C. is asking for
20 a number of things. Number one, he is asking to be
21 able to use male restrooms. Are you aware of that?

22 A. Yes.

23 Q. Male restrooms at school; correct?

24 A. Yes.

25 Q. And are you aware that he's asking that he be

1 referred to by his male first name and by male
2 pronouns? Are you aware of that?

3 A. Yes.

4 Q. And he's also asked that he be able to participate
5 on the boys soccer team next fall, fall of 2022.

6 Are you aware of that?

7 A. Yes.

8 Q. And is that your understanding of what he is asking
9 for in this litigation?

10 A. Yes.

11 Q. Okay. And you are aware that he's now asked for a
12 preliminary injunction, a quick order addressed to
13 the restroom and the name issues and pronoun
14 issues; is that correct?

15 A. Well, I am now. I'm not sure. I guess I am.

16 Q. Okay.

17 A. You're telling me that.

18 Q. The issue concerning soccer obviously can be
19 deferred a little bit.

20 Are you aware of, or have you heard of the
21 concept of social role transition when it comes to
22 transgender persons?

23 A. No.

24 Q. Are you aware that transgender persons will want to
25 wear clothing, hairstyle, and take other actions

1 consistent with their gender identity to make them
2 more comfortable?

3 A. I've seen that within my, within my different
4 students that have identified as transgender in my
5 building.

6 Q. And are you aware that, at least as a theoretical
7 matter, bathroom usage, using the bathrooms
8 consistent with one's gender identity, could be one
9 of those things that would make a transgender
10 person feel more comfortable?

11 A. No.

12 MR. ZIMMERLY: Objection to the term,
13 transgender person, as being vague and undefined.
14 You can answer.

15 Q. I'm sorry. You're not aware?

16 A. No. I'm not quite understanding your question.

17 Q. Okay. Well, you said that you're aware, from
18 observing students who are transgender, about their
19 desire to wear clothing and hairstyle of their
20 gender identity; is that correct?

21 A. Yes.

22 Q. And they are trying to take steps to identify with
23 the gender different than their sex at birth; is
24 that correct?

25 A. Yes.

1 Q. And what I asked you, the next question was are you
2 aware that bathroom usage, using the bathroom, a
3 bathroom consistent with one's gender identity, is
4 another way of becoming more comfortable with that
5 gender identity?

6 A. No, I'm not aware of that. I'm aware A.C. has
7 requested to use the male restroom.

8 Q. And you have had experience in the junior high
9 school there, Wooden high school, with transgender
10 students?

11 A. Yes.

12 Q. And how many transgender students are you aware of
13 who have passed through the middle school, that
14 you're aware of?

15 MR. ZIMMERLY: I'm going to object really
16 quickly. This is the same objection, that the
17 term, transgender, is vague and ambiguous. You can
18 answer.

19 A. We have had a few. There's a handful in the
20 district. I currently at John R. Wooden have, I
21 know of four transgender students. But the number
22 fluctuates because they, I have, some of them
23 switch back and forth. You know, this week they
24 identify as a female. Before Christmas they might
25 have identified as a male. So it's pretty fluid in

1 some cases. So the number fluctuates.

2 Q. To the best of your knowledge, I'm now asking you
3 district-wide, is A.C. the only student who has
4 asked to use a bathroom consistent with their
5 gender identity that is different than their sex at
6 birth?

7 A. The only one that I know of.

8 Q. Okay. Now, going back to the email from
9 Mr. Reynolds, which is at Exhibit 2, page 15.

10 MR. ZIMMERLY: You said page 15?

11 MR. FALK: Correct, page 15 or 17. But they
12 are the same, so let's go to 15.

13 A. The one to the staff?

14 Q. Sure.

15 A. Okay.

16 Q. And who is Doug Reynolds who signed this?

17 A. Doug Reynolds is our social worker at John R.
18 Wooden.

19 Q. And what precipitated the sending of this out? Why
20 was this sent out?

21 A. There was a situation where A.C. had used the, the
22 male restroom, and one of our staff members who was
23 in there using the restroom notified me. I was in
24 a conference. And then Mr. Reynolds had called me
25 and asked what to do.

1 And he asked about sending an email. So I
2 said it's okay. Make sure I see the email first.

3 So he asked about sending an email to make sure the
4 staff was aware.

5 Q. And this indicates in the first paragraph that "Our
6 district policy," which is MSD Martinsville;
7 correct?

8 A. Correct.

9 Q. -- is that the student needs to use the restrooms
10 of their birth sex or use the clinic bathroom;
11 correct?

12 A. Well, my interpretation of that is based on Title
13 IX. Really, it's based on a case-by-case basis of
14 the individual student as far as what's allowed to
15 be doing. So my interpretation of that policy is
16 abiding by Title IX.

17 Q. Well, you say case-by-case basis, so is there a
18 situation where a transgender student could use a
19 bathroom consistent with their current gender
20 identity, even though it's different than their sex
21 at birth?

22 A. Yes. It would depend. We would want to keep the,
23 depending on the maturity level, to keep
24 transgender students safe, the privacy of other
25 students, but also has there been the diagnosis of

1 gender dysphoria, as you talked about. Are they on
2 hormones, or are they going the other direction?
3 I'm not sure of the legal or how it actually works.
4 Are they taking testosterone? Have they had
5 surgery? Have they legally attempted to change
6 their name through the court system and their
7 gender marker? One of the other circumstances that
8 might play a role, what's the pattern? How many
9 years have they been transitioning?

10 So we would treat them on a different
11 case-by-case basis. The reason we would do that is
12 based on the safety of the transgender student, the
13 privacy of the other students, and then basically
14 what the courts, the court's guidance in this area.

15 Q. Okay. Well, let's unpack that a little bit. So
16 Mr. Reynolds got your approval to send out
17 something which says that our district policy, that
18 is backed up by our state rules, says the student
19 still needs to use the restrooms of their birth sex
20 or use the clinic bathroom. So you're saying
21 that's not the district policy?

22 A. I'm just saying it's my interpretation of that
23 email, when he said district policy, was our
24 interpretation of Title IX. Our policy, especially
25 that at the building level, is on a case-by-case

1 basis that I outlined for you.

2 Q. Right. And I guess I'm confused because, well,
3 first of all, is this policy written down anywhere
4 that you're aware of?

5 A. No. I said, again, my interpretation is that this
6 is regarding Title IX.

7 Q. So your policy is to follow Title IX; is that
8 correct?

9 A. Yes.

10 Q. Okay. And the state rules that are mentioned in
11 that paragraph, do you know what state rules
12 Mr. Reynolds was referring to?

13 A. Not exactly.

14 MR. ZIMMERLY: Let me just make a quick
15 objection, just to the extent you're asking him to
16 opine as to Mr. Reynolds' thinking, and the
17 document speaks for itself.

18 MR. FALK: Well, that's fair.

19 Q. Let me ask you, you read this. You approved it.
20 What do you think the state rules are that are
21 referred to in this sentence?

22 A. My basis of this being approved is following Title
23 IX guidance for our school in general. And my
24 thinking of this is also the district, we follow
25 Title IX, and being an athletic person, but also in

1 our bathrooms, different areas that we have
2 followed that. So that's my interpretation.

5 Q. Okay. So your position is, the school's position
6 is, Martinsville's position is that we follow Title
7 IX. Fair?

8 A. Yes. Follow Title IX, yes.

9 Q. And the second paragraph says at the end about "If
10 a student identifies as transgender and needs to
11 use the restroom during class, please let the front
12 office know so we can check the cameras to make
13 sure the correct bathroom was used." What's that
14 all about, if you know?

15 A. We just want to make sure that students are using
16 the restroom that we've requested that they use.
17 Sometimes, you know, we don't know what's going on.
18 So just like the teacher that contacted me when I
19 was in a conference that A.C. was in a restroom
20 when he was in there and wanted to let me know,
21 just if that's happening, just so we could address
22 the issue.

23 Q. And I assume that if a student disobeys this, if a
24 student uses or habitually uses the wrong restroom,
25 that student could be punished; correct?

1 A. Yes.

2 Q. And what is the basis for the policy as laid out in
3 Mr. Reynolds' email?

4 MR. ZIMMERLY: I'm going to object in terms of
5 that being the district policy, but you can answer.

6 A. I would go back to it being a case-by-case basis
7 that we address it. Have they, how many years? Is
8 there a pattern of them, of the transgender, of the
9 student changing or being a transgender as far as
10 dress? Have they been diagnosed with gender
11 dysphoria? Are they on hormones, testosterone?
12 Are they, is there other circumstances we don't
13 know about? Have they legally requested the name
14 change?

15 So I would go back to those points. We are
16 not saying it can never happen. We just want to
17 know are these standards or criteria being met.

18 Q. And they are standards and criteria that are based,
19 in your estimation, on the requirements of Title
20 IX; is that correct?

21 MR. ZIMMERLY: Objection to the extent you are
22 asking for a legal conclusion, but you can answer.

23 A. Yes.

24 Q. Okay. And you had indicated or, I'm sorry,
25 Mr. Reynolds' email that you had approved indicated

1 this notion of cameras being used to check on the
2 bathroom usage. That is something that's unique to
3 transgender students, I assume? You're not
4 checking the bathroom usage of all students who say
5 they have to go to the bathroom during class?

6 A. Well, we check cameras. Being a middle school,
7 we've had all kinds of different incidences that
8 happen. So we check cameras, if there's -- a lot
9 of times they are not in the bathroom, of course,
10 but if someone is going to the wrong area. All
11 students go to the wrong classroom. They are
12 skipping school. We will always use the cameras to
13 check where those students are going.

14 Q. Okay. But teachers are not required to report when
15 a nontransgender student says they have to use the
16 bathroom in the middle of class, for instance?

17 A. Well, depends. If we've got a case, we have a
18 vaping that's going on that's wild. If we've got a
19 vaping happening in certain restrooms, we'll say
20 check. You know, let us know who is going in,
21 stand in the hallways, be vigilant.

22 So there are all kinds of different issues
23 that happen in the middle schools. If there's
24 vandalism, I don't know if you're aware of all
25 these TikTok challenges, so things happening in our

1 | restrooms.

2 That being said, we are always having teachers
3 observing who's entering restrooms, whether they
4 are transgender, they're not transgender, because
5 we want to make sure our restrooms are safe.

6 There's just a lot of vandalism, vaping, things
7 that go on that we want to make sure we're keeping
8 an eye on.

9 Q. Okay. But there is no requirement, as a matter of
10 course in every case, if a student asks to leave to
11 go to the bathroom, the student is not transgender,
12 there is no requirement that the teacher report
13 that; correct?

14 A. Well, my expectations are for my teachers always to
15 be vigilant and seeing who is in the hallway.

16 Q. My question is a yes-or-no question. Is there a
17 policy or a memo or a practice where teachers have
18 to report when nontransgender students use the
19 bathroom, leave to use the bathroom during class?
20 Just yes or no. Is there something there that says
21 they need to report that?

22 A. Well, there is my -- whether it's a staff meeting,
23 again, I'm not sure. If I have a nontransgender
24 student enter the wrong restroom, we're going to
25 deal with that student.

1 Q. That's not my question. My question is really
2 simple. If I'm a transgender student, according to
3 Mr. Reynolds' email, and I'm using the bathroom
4 during class, there is this request that the
5 teacher notify the front office. Is there a
6 similar requirement if a nontransgender student
7 wants to use the bathroom during class? It's a
8 yes-or-no question.

9 A. The opposite restroom? So, yes, there would be.

10 Q. No, no. A student who is not transgender raises
11 their hand and says I want to go use the bathroom.
12 If the teacher says yes, does that have to be
13 reported if the student is not transgender?

14 A. I would say yes, if they are not using the restroom
15 of their --

16 Q. Sir, that's not my question. The way the memo is
17 written, that's on page 15 that we're talking
18 about, indicates that if a student identifies as
19 transgender and needs to use the restroom during
20 class, please let the front office know.

21 MR. ZIMMERLY: I just object to that being
22 referred to as a memo rather than an email.

23 Q. Okay. The email says that please let the front
24 office know so we can check the cameras. My
25 question, sir, and it really is a yes-or-no answer,

1 is there a similar requirement for a student who
2 does not identify as transgender and needs to use
3 the restroom during class? Does the front office
4 have to be contacted?

5 A. Worded that way, no.

6 Q. Okay. Thank you. Now, are there any transgender
7 students that you're aware of who attend
8 Martinsville schools, be it Wooden or elsewhere,
9 who are allowed to use a bathroom that is
10 consistent with their gender identity but is
11 different than their sex at birth?

12 A. That's done on a case-by-case basis at building
13 level, so yes.

14 Q. There are currently students; is that correct?

15 A. Yes.

16 Q. And looking at A.C., what would he have to do at
17 this point to be able to use the male restrooms?

18 A. Going back to what I had stated earlier, it just
19 depends, basically to provide safety for the
20 transgender student, privacy for all students. But
21 if they can prove that, you know, show that they
22 are under a physician or physician's care, they've
23 been diagnosed with gender dysphoria, are they on
24 hormones, testosterone, have they had surgery, in
25 some other circumstances have they filed for a

1 legal name change or gender marker change.

2 So there's a lot of different circumstances
3 that -- we are not saying it can never happen. We
4 are just saying these are some criteria, standards
5 that we'd like to see met. And for us in a middle
6 school, it revolves around maturity of the students
7 and, you know, safety of the students and privacy,
8 and again guidance from the court, other courts in
9 this area.

10 Q. Well, you say that there are students, transgender
11 students who are being able to use bathrooms
12 consistent with their current gender identity even
13 though their bathroom is for a sex different than
14 their sex at birth; correct?

15 A. Correct.

16 Q. And what did those -- did those students have
17 surgery?

18 A. That is at the high school, and I do not know.

19 Q. And how many such students are there, if you know?

20 A. Again, we have a handful in the corporation. I
21 know we have four at John R. Wooden. But that
22 number fluctuates because, especially at the lower
23 ages, many times a transgender student will switch
24 back and forth. I have that happening in my
25 building right now.

1 Q. So if A.C. presents you with information from a
2 doctor saying he's transgender, he has gender
3 dysphoria, he's under treatment -- he is not going
4 to be getting surgery because surgery is generally
5 not available for persons under the age of 18 --
6 but he's petitioning for a gender marker change,
7 would that be sufficient?

8 A. At this point no because some of the other, are
9 they doing the testosterone would be another
10 aspect. So, again, at this point no. But I'm not
11 saying it could never happen.

12 Q. Well, I mean, let's assume, neither of us are
13 doctors, but let's assume that surgery is off the
14 table for persons under the age of 18. If A.C.
15 goes to state court, and a state court says I'm
16 changing the gender marker to male and formally
17 changing the name to male, would that be
18 sufficient, or is something else necessary?

19 A. Not at this time that would not. That would be
20 partly, that would be a part of it. Again, you
21 know, take surgery off, but is the testosterone,
22 are they doing that. A pattern, are there other
23 circumstances that we might need to know about.
24 That type of stuff, this is at the, I'm talking at
25 the middle school level because of the maturity of

1 our students.

2 Q. What if he's taking testosterone? Would that be
3 enough?

4 A. That could be, but not at this point. I think it's
5 got to be weighed, you know, putting it all
6 together. So in the way you're asking it, if he
7 did this, I think if you put them all together,
8 some of the things we talked about, and eliminate
9 the surgery, then I would say probably yes.

10 Q. And whose decision would that be ultimately? Would
11 that be yours?

12 A. I think I would play an input, but I think
13 eventually I believe this is a board policy
14 decision.

15 Q. And you said it depends on the maturity, and I
16 think you were referring to maturity not of, in our
17 case A.C., the student in question, but the
18 maturity of other students. Is that what you were
19 referring to?

20 A. Yes.

21 Q. What does that mean?

22 A. Well, middle school, it can be quite entertaining
23 at times, but many of the kids are, if you are
24 talking about the cognitive level, they're bright,
25 great kids. But the maturity level in general of

1 many of them, that's why -- you know, they are not,
2 most of them aren't teenagers yet. That's why they
3 don't drive. They don't vote.

4 They are, you know, we are here to give them
5 guidance. And many times they need that because
6 they are not mature enough to handle many of the
7 topics that, say, a high school student might be
8 able to handle. Does that make sense?

9 Q. Well, I think what you're telling me is that there
10 is a concern of how they will react to a
11 transgender student in the bathroom. Talking about
12 A.C. specifically, they would, male students might
13 react negatively if they saw A.C. in the bathroom.
14 Is that fair?

15 A. Well, no, not necessarily just the restroom, but
16 whether it comes from, whether it's teasing. You
17 know, we're constantly, this does not have to do
18 with gender, but correcting our students, you know,
19 what's right and wrong. This is something you
20 can't say. So it's kind of an ongoing battle, you
21 know.

22 We are teaching them to be young men and
23 women, and so the maturity level at the middle
24 school or younger, they are not quite ready to
25 handle many of the topics that a high school

1 student might be able to handle.

2 Q. There's a concern about how they are going to
3 react, simply put; correct?

4 A. Yes.

5 Q. Okay. And I might have asked you this, and I
6 apologize. Of the students that you're aware of
7 who have been, transgender students who have been
8 allowed to use bathrooms consistent with their
9 gender identity, those are all at the high school;
10 is that correct?

11 A. That would be at the high school. Again, it's a
12 case-by-case basis. I'm not familiar with any of
13 the individual cases.

14 Q. But you're aware that it's happened at the high
15 school?

16 A. I know they are allowing it. I don't know if it's
17 happened.

18 Q. By allowing it, that means you are allowing
19 someone, for instance, who is a male transgender
20 person to use the male restrooms at the high
21 school?

22 A. Yes.

23 Q. But you're not familiar with that ever happening at
24 the middle school level?

25 A. No.

1 Q. And Wooden is the only middle school, is that
2 correct, in Martinsville?

3 A. Yes.

4 Q. And you had just talked about who would be the
5 final decision-maker. So if A.C. does whatever
6 A.C. does, presents you with the information you
7 think it would seem okay for him to use the male
8 restroom, would that go to the board, you say, or
9 would it go to the superintendent?

10 A. Well, I would give it to, I would give that to the
11 superintendent. Here's what we've got. A.C. has
12 presented us with this criteria. And I would give
13 it to them and let them make that decision.

14 Q. Okay. But it's your position today, or
15 Martinsville's position today that A.C. does not
16 need surgery in order to be able to access the
17 bathroom, if he satisfies the case-by-case
18 determination; correct?

19 A. Correct. I was just using that as an example of
20 different things you might present to us. Well,
21 the student might present.

22 Q. Sure. And that's perfectly fine. I just want to
23 make sure there is no bright line in the district
24 that says A.C. has to have surgery before this can
25 even be considered.

1 A. No.

2 Q. And what you've told me is there is no such bright
3 line; correct?

4 A. Correct.

5 Q. And having his gender marker changed in a state
6 court is something that would be considered
7 concerning bathroom usage, but would not
8 necessarily tip the balance to allow him to use the
9 male restroom; is that correct?

10 A. Yes.

11 Q. Now, Exhibit 2, the documents I've got, at pages 20
12 through 22, I believe --

13 A. I see it.

14 Q. -- those are screenshots of your information
15 system; is that correct?

16 A. That is correct.

17 Q. And what's the name of the system?

18 A. This is Skyward.

19 Q. Skyward. And this will list a student's address,
20 legal name, and I believe on page 21 gender. Do
21 you see that?

22 A. Yes.

23 Q. And for A.C. it lists his name on his birth
24 certificate, which is a female name, and it lists
25 gender as female, is that correct, or "F"?

1 A. Well, I can tell you this is, I assume you're
2 right, but this is so small on my computer, my
3 bifocals aren't cutting it, so just hold on.

4 Q. Well, given the difference in our ages, I'm
5 impressed that I can see it. I'm just going to
6 bask in that for a while.

7 A. Yes. I can see what you're saying.

8 Q. Okay. Here gender and sex mean the same thing; is
9 that your understanding?

10 A. Yes.

11 Q. And it also notes on page 21, maybe to help both of
12 our eyes I think probably on page 20 as well --
13 I'll just check real quick. 20 is much better. It
14 notes that the student goes by, and it has his
15 name, his male name that he's using. Do you see
16 that?

17 A. Yes.

18 Q. And that's information added based on what the
19 school learned from either the student or the
20 teachers or mom or dad or whatever; is that
21 correct?

22 A. Yes. We just, actually, I've got a copy in my
23 briefcase that I had a roster printed out so we
24 could avoid some of these issues of identifying
25 A.C. as the female name, to make sure that we have,

1 even though I've shared this with A.C.'s
2 stepfather, you know, for us to change the actual
3 name that's in there, it's got to still be done
4 legally. But we do have a system where, which I
5 just found this out last week, we can put the name
6 that they want to be called, so long as the parents
7 approve of it, we can put it in there, and that
8 will pop up on the roster. So we worked to fix
9 that. We did just find out, so we got that fixed,
10 and then we're doing a lot of contact tracing.

11 And then we had issues with Skyward. We put
12 the seating charts in there, and now we've got to
13 figure out how to fix the seating. We think we
14 did, so we're working at fixing these items so we
15 don't make these mistakes that the student doesn't
16 want to be called.

17 Q. The school has no problem with A.C. being referred
18 to by his male first name. And, in fact, when a
19 new teacher or a substitute comes in and is
20 checking the roster, at least based on what you
21 discovered last week, you can now make it clear
22 that the male name will pop up. Is that fair?

23 A. Yes. We are, we have been doing that from the
24 beginning. Our teachers have always, we have a
25 growth mindset that we've always been, at teacher

1 meetings we've talked about it. Refer to the
2 student as the pronoun they want. Refer to the
3 name that they want to be called.

4 Some of the issues we ran into where we've had
5 subs, and the roster's printed wrong, we tell
6 teachers to be apologetic, which they have.
7 They've all apologized.

8 We have a growth mindset, and we've worked at
9 getting better at it, and so fixing that.

10 Q. So as far as the school is concerned, there is no
11 problem with A.C. being referred to by his male
12 first name and using male pronouns?

13 A. No. We are doing that.

14 Q. And staff is big informed of that either through
15 your meetings or through the roster itself; is that
16 correct?

17 A. I'm not sure -- well, I guess it would be through
18 the roster now because it pops up. And then we've
19 also got a flag, and they can flag it to make sure
20 you call this student by this name. So they've
21 been instructed to do that. At our last teacher
22 meeting in December we discussed that, make sure
23 we're doing what we need to do.

24 I've done that in previous meetings. We've
25 done it at other meetings as well. So it's

1 something we've addressed and we are very aware of.

2 Q. Okay. Well, let me reiterate, just so we can
3 hopefully avoid this being part of this litigation.

4 The school has instructed staff to refer to A.C. by
5 his male first name and also by male pronouns; is
6 that correct?

7 A. Yes.

8 Q. Great. And what about, and this, as I said, is not
9 going to be an issue in the preliminary injunction.
10 We may have to revisit this. But I just want to
11 skip over real quick the current position
12 concerning A.C. playing for the boys soccer team,
13 which I assume will be in the fall of 2022. What
14 is the school's position as to that?

15 A. At the middle school we follow IHSAA guidelines,
16 and they have to meet that criteria to be able to
17 do that. And for us, we follow the IHSAA
18 guidelines. It's best practice, safest practice
19 for our students.

20 We have the guidelines, and we do that from
21 concussion protocol, to physicals, to contact
22 tracing, to number of practices. So we follow the
23 guidelines set forth. The only thing that we
24 really don't follow as far as IHSAA guidelines is
25 the grading, is eligibility, because middle school,

1 we don't have credit. That's something at the high
2 school.

3 So IHSAA says we have to have so many credits
4 to be eligible to play. Middle school doesn't have
5 credits, so that's the only differing aspect that
6 we don't follow.

7 Q. You, of course, know, given your athletic
8 background, the IHSAA rules do not apply in middle
9 school. They apply in high school.

10 A. Well, the rules, our conference schools, I don't
11 know of one that doesn't follow it. But it's best
12 practice and safest practice to keep our kids safe.
13 I don't want a coach -- I'm always going to tell my
14 coaches follow IHSAA policy to keep our kids safe.

15 Q. Okay. Now, my understanding is that A.C. began to
16 attend Martinsville schools in fifth grade. Is
17 that your understanding, if you know?

18 A. Yes.

19 Q. And what school was that; do you know?

20 A. I do not know.

21 Q. Okay. And while in elementary school, my
22 understanding is that his mother asked that he be
23 referred to by male first name and by male
24 pronouns. Was the school aware of this before he
25 started high school?

1 A. I do not know. Are you talking about middle
2 school?

3 MR. ZIMMERLY: Objection.

4 Q. Middle school, thank you.

5 MR. FALK: Objection for plaintiff's counsel
6 being wrong.

7 Q. Middle school, yes. Were you aware of this before
8 he started middle school?

9 A. I was not aware of it until the beginning of this
10 year, school year.

11 Q. You were not aware that A.C. wanted to be known by
12 his male first name?

13 A. Not until the beginning of this year.

14 Q. So you don't know what happened in elementary
15 school?

16 A. I don't know what happened in intermediate school
17 or at the elementary level.

18 Q. Are you aware of whether he had expressed
19 discomfort over using the girls restrooms when he
20 was in earlier grades than where he is now?

21 A. No.

22 Q. Are you aware that he was using the restroom in the
23 nurse's office in earlier grades prior to now?

24 A. Not that, I would not know his individual
25 situation, but I figure if the intermediate school

1 is doing what we're doing, then I would say yes. I
2 don't know if that makes sense.

3 Q. Sure.

4 A. I don't know about A.C. individually, but I do know
5 that they are using, transgender kids are using the
6 nurse's office or the unisex bathroom for staff.

7 Q. And you said intermediate school. Is that sixth
8 grade?

9 A. That's fifth and sixth grade.

10 Q. So when did the Wooden School become, gain
11 knowledge that A.C. was not comfortable using the
12 girls restrooms, and he wanted to use the boys
13 room?

14 A. Well, my first, my first knowledge of it was a
15 situation where, I can't remember if the stepdad
16 had called me before or after, but there was a
17 situation -- we have what's called an E-learning
18 lab. We have a shortage of subs, so we have a
19 teacher or an aide that will take two, maybe three
20 classes in the cafeteria.

21 So in the process of that, on the roster the
22 aide referred to A.C. as the female name, and that
23 was upsetting. And I believe, I don't know if I
24 talked to the aide at that point or -- it was
25 upsetting to A.C. But I heard from the stepfather.

1 And then after becoming aware of it, I did talk
2 with the aide, who again apologized. And the aide
3 did tell A.C. that your parents will have to get
4 this changed in Skyward. Probably not knowing the,
5 I'm not quite sure if she said do it legally, but I
6 believe it's got to be changed in Skyward.

7 So I did talk to the aide. The aide told me
8 that she apologized. She did not mean to hurt
9 A.C.'s feelings. And we moved forward, and I
10 shared that with A.C.'s stepfather as well.

11 Q. About when was that? Do you remember what month
12 that was?

13 A. It would have been, I think, the first week of
14 school, so August. That was my first time of
15 hearing about A.C.

16 Q. Okay. At that point were bathrooms discussed or
17 just names?

18 A. No bathrooms were discussed.

19 Q. I know that we'll talk about a meeting that a
20 number of your staff had with A.C. and his mom and
21 GenderNexus in late October. I want to ask you,
22 before that meeting in late October, were you aware
23 of a problem with A.C. using restrooms?

24 A. It would have been, I want to say, September, maybe
25 October, I'm not sure of the date, but A.C.'s

1 stepfather had called in and had talked to one of
2 my assistants, one of the secretaries, and asked
3 about the restroom situation for transgenders. And
4 I relayed that they are allowed to use the nurse's
5 office. And that's the last time I had heard until
6 there had been some other issues, but as far as the
7 restrooms.

8 Q. So Martinsville has no written policies concerning
9 restroom usage by transgender students, although
10 we've discussed what the policy is. Is that fair?

11 A. Yes, correct.

12 Q. Are there any written policies concerning restroom
13 usage in general by students that you're aware of?

14 A. Just on a case-by-case basis. And as far as
15 written policy for the corporation, that would be
16 no.

17 Q. And the written policy that the school uses
18 concerning athletic participation by transgender
19 students are the IHSAA rules; correct?

20 A. Correct.

21 Q. Now, are you aware that A.C. is a patient of the
22 gender health program at Riley Hospital?

23 A. Is that the GenNexus? I'm trying to think of the,
24 is that that group?

25 Q. No. GenderNexus is an advocacy group. But are you

1 aware that he's a patient at Riley Hospital?

2 A. I think, as I said I'm trying to recall, but
3 possibly through an email that Marissa from
4 GenNexus might have shared that with me, but I
5 don't recall. It doesn't, you're bringing it up,
6 and it doesn't scratch my memory, but that doesn't
7 mean I don't remember, you know.

8 Q. Okay. But you have not seen any medical records
9 yet that indicate that he's transgender and suffers
10 from gender dysphoria; correct?

11 A. No.

12 Q. And that's something you'd like to see and take
13 into account whether he could use the male
14 restrooms; is that correct?

15 A. Absolutely.

16 Q. And are you aware that he's being prescribed
17 medication at this point to suppress periods prior
18 to beginning hormone treatment?

19 A. I was not until I read it in one of the papers I
20 was served. It's stated in there, but that's the
21 first I heard of.

22 Q. And, again, that's something you would like to see
23 in order to be able to consider on this
24 case-by-case basis; is that correct?

25 A. Yes.

1 Q. If you get the medical records that show he's
2 diagnosed, he's transgender, he's diagnosed with
3 gender dysphoria, and he is taking medication to
4 suppress his periods, and if the doctors indicate a
5 schedule for receipt of hormones, would that be
6 sufficient to allow him to use the male restrooms
7 at this point in time?

8 A. I would say possibly. If a student, they
9 definitely would be committed at that point. But
10 if they are on testosterone, I'm not a doctor, so
11 as far as medicine, I don't know. It would depend
12 on what kind of medicine. So I couldn't make that
13 judgment based on if you asked me, well, if they
14 are taking it to suppress a period, well, I don't
15 know. Is that the pill? That's out of my realm.
16 Does that make sense?

17 Q. Yes. I'm a doctor of law, but that's it. Well, I
18 guess, I guess I'm curious. Focusing on A.C.,
19 focusing on middle school and the concerns you have
20 about maturity and all that, I raised two boys. I
21 understand. If the school is willing to concede
22 that A.C. can use the male restrooms, could
23 possibly use the male restrooms without getting
24 surgery, gender reassignment surgery, if the school
25 is willing to concede that, and you have conceded

1 that, what are you looking for as from A.C.'s side
2 as to what he has to do to demonstrate he can use
3 the male restroom?

4 A. Well, I think it goes back, I don't want to repeat
5 myself, but going back to the diagnosis of gender
6 dysphoria. Is he on testosterone. How long has he
7 been identifying. What's the past history.

8 You mentioned, I haven't even thought about
9 this, has he played soccer in the past? The first
10 time I ever heard about soccer was after this
11 GenNexus meeting. Has he played soccer in the
12 past? Has he filed in court, getting the name
13 changed and the gender changed on the birth
14 certificate? So it could be, but it just depends.
15 Those are things we are looking for.

16 Q. And I understand exactly what you're saying. I
17 hear the words. I understand English. But my
18 question is this: What is the school looking for?
19 Not in terms of the different components, but are
20 you looking for someone to say that A.C. really is
21 a transgender, and he really is committed to being
22 male? Is that what you're looking for? Because
23 all those things will not change him anatomically.

24 But you're saying that even though he is not
25 changed anatomically, it may be possible for him to

1 use the male restrooms. And I'm trying to figure
2 out what your decision point is.

3 If I get a doctor to say this is what we're
4 doing. This is the course of treatment. He is
5 transgender. He does have gender dysphoria. He's
6 not going to be able to get surgery because we
7 don't do that until they're 18, but he is on a path
8 to get hormones. Is that enough?

9 A. I'm not sure at this point, but I think you're
10 getting closer. I mean, those are distinctions
11 that might probably be made by them. I would bring
12 that information to the superintendent and the
13 school, and I'm sure he would eventually talk with
14 the school board on those things.

15 But, again, you're asking me to assume, okay,
16 what they're thinking. Like I said, medicine to
17 stop a period, I said that could be the pill. I
18 mean, so that would, that probably wouldn't go. So
19 I'm not a doctor. That's out of my realm.

20 Q. Okay. Okay. But you're telling us in this
21 deposition that if we get you medical evidence,
22 you're willing to take it to the superintendent and
23 say is this enough?

24 A. Absolutely.

25 Q. Okay. You're aware, the school is aware, and it's

noted on page 20 of Exhibit 2, that A.C. suffers from anxiety; correct?

A. Yes. Actually, I even see that's listed on Skyward, too.

Q. And is that, do you know where that awareness comes from? Is that from self-reporting or parent or observation?

A. That would be from, my understanding, it would be from the parents and what conversations they've had, whether it's with counselors. Was it put on there last year? There's a difference when he was in fifth and sixth grade at Bell Intermediate. I'm not sure. I haven't talked with my counselors, if they put that in there or not.

Q. And at page 10 of Exhibit 2 you had referred to an incident where A.C. became very upset when he was called by his former name.

A. Is that the one involving the band teacher,
Mr. Powell?

Q. Yes. Is that the incident you were referring to earlier?

A. Yes.

Q. And then it looks like at page 13 there is a report by Kari Mann.

A. Yes.

1 Q. That's the same incident as well; is that correct?

2 A. Yes.

3 Q. And she is, she is an employee of Adult and Child
4 Mental Health; is that correct?

5 A. Yes.

6 Q. And what's her function at the school?

7 A. She works with, works with different students
8 possibly in need of therapy. The parents have to
9 agree to that.

10 Q. Okay. And she has worked with A.C.; is that
11 correct?

12 A. Well, not really. I believe the parents, or I
13 don't know if it was mom had said that originally
14 they were interested in it and had some paperwork,
15 but have never -- you've got to sign on, sign the
16 papers that you want to do it. So I don't believe
17 they have done that or did that.

18 Q. But she did volunteer to be his advocate in a
19 meeting; is that correct?

20 A. Which meeting?

21 Q. I don't know. She says during a previous
22 meeting -- at the very end, last paragraph --
23 during a previous meeting with A.C.'s parents,
24 GenNexus stated he needed an advocate in school. I
25 agreed to be that advocate.

1 A. Yes.

2 Q. So she at least recognizes that he's having some
3 anxiety and other mental health issues; is that
4 correct?

5 A. I can't speak for her. She was, did allow her to
6 sit in on the Nexus meeting, allowed her to see if
7 they would be interested in using any of her
8 services. So that may have been where she, that
9 came up with. I'm not sure.

10 Q. Okay. So take a look at page 14, which is this
11 great map that you supplied.

12 A. Okay. I'm going to try to go on memory because
13 mine is small.

14 Q. Okay. I probably won't be asking that many
15 questions, but the numbers on this map, beginning
16 at 1, 2, 3, 4, 5 in the right-hand part of the map,
17 I assume those are all classrooms; is that correct?

18 A. Yes.

19 Q. And I see the gym is upstairs. Is the school, the
20 classrooms, are they upstairs and downstairs, or
21 are they all on one level?

22 A. They are all on one level. The gym is upstairs,
23 bleachers upstairs, and a walking track.

24 Q. And I assume the students will go to different
25 classes. They will not just be in one room during

1 the day; is that correct?

2 A. Correct.

3 Q. And what are the hours of school?

4 A. Students get there at 7:15, so first class starts
5 at 7:25. Buser bell goes off at about 2:21.
6 Walker bell is 2:45.

7 Q. How many periods are in the day?

8 A. We have six. And we have a success class, we have
9 success class from 7:25 to around 8:00, where the
10 students are doing different remediation. We do
11 announcements, study, you know, more like a study
12 homeroom.

13 Q. Okay. And how much of a passing period is there
14 between classes?

15 A. Four minutes.

16 Q. We've been going for an hour. You do not have a
17 constitutional right to a break at this point, but
18 it's traditional to say do you want to take a
19 break? I am on, I'm at least two-thirds of the way
20 done, so if you want to take a break.

21 A. I'm good if you guys are.

22 MR. FALK: Phil, are you good?

23 MR. ZIMMERLY: I'm fine to press ahead, if
24 you're okay, Ken.

25 MR. FALK: I'm fine. Thank you.

1 Q. So on this map the key tells us that GR is, what I
2 assume, girls restrooms, and BR the boys restrooms;
3 correct?

4 A. Yes.

5 Q. And there are "D" numbers around the outside of the
6 map. I assume those are doors to the outside?

7 A. Yes.

8 Q. Good. And I assume that the restrooms are
9 generally to be used during the four minute passing
10 period; correct?

11 A. Yes. But there are situations where teachers let
12 students go.

13 Q. Of course.

14 A. If it's an emergency.

15 Q. But the student has to get permission to leave
16 during class, I assume?

17 A. Yes. We hope.

18 Q. That's the plan, anyway. And, obviously, the idea
19 is you don't want to disrupt the class and miss the
20 class by leaving during the class and disrupt the
21 class, so you try and encourage the students to use
22 the restrooms during the passing periods; correct?

23 A. Yes.

24 Q. I assume that the girls and boys restrooms marked
25 on the map are designed for multiple use. That is,

1 they have multiple stalls and/or multiple urinals;
2 is that correct?

3 A. Yes.

4 Q. Are there doors on the stalls?

5 A. Yes.

6 Q. Do the urinals have dividers between them, or are
7 they open?

8 A. Dividers. So, yes, they have dividers.

9 Q. Okay. Thank you. And we've talked about the fact
10 the option was given to A.C. to use the health
11 clinic bathroom; is that correct?

12 A. Yes.

13 Q. And is the health clinic the room marked clinic,
14 north of classrooms 19 and 18, assuming the map
15 went that way?

16 A. Yes.

17 Q. And the bathroom is within that clinic; is that
18 correct?

19 A. Yes.

20 Q. And I assume that this is a single toilet room,
21 designed for use by both sexes; is that correct?

22 A. Yes.

23 Q. And does the school have a nurse, a full-time nurse
24 occupying the clinic?

25 A. Yes.

1 Q. And is she the only one using that office?

2 A. Well, we have two nurses, so sometimes they are in
3 and out. We have one that is stationed, we have
4 one that's full time, and we have another one
5 that's there most of the time, but will go to other
6 buildings in situations.

7 We share nurses. We're fortunate to have a
8 full-time and a half.

9 Q. You share a nurse with another school?

10 A. We have a full-time one, but we have another one.
11 We actually have two nurses, and one of those
12 nurses goes to a few other schools.

13 Q. Got it. And I assume that because of what probably
14 is in the clinic, that when the nurses are not in
15 the clinic, the door is locked. Is that correct?

16 A. Yes.

17 Q. And can all students use this restroom if they need
18 to, or do you need permission to be able to use the
19 restroom in the nurse's clinic?

20 A. They would ask to go. They are allowed to use it.

21 Q. They would have to get -- I'm sorry.

22 A. Yeah, they would just have to ask the nurse, like
23 any student, can I use the restroom.

24 Q. But A.C. was given the opportunity to use it
25 without permission, I assume, assuming the door is

1 unlocked; correct?

2 A. Well, you would have to sign in. Anyone that goes
3 to the nurse, they sign in so we've got records
4 where the student is. So I guess that would be
5 yes, but.

6 Q. Okay. So is the clinic just one room with
7 obviously a separate bathroom?

8 A. We've got one room -- there's a separate bathroom.
9 There's a couple areas where the students,
10 different rooms where students can lay down -- they
11 are not huge -- if those students are sick. So
12 there is an area, it's, I'm going to say, two small
13 rooms for students to sit in.

14 There is a room in the back, and then as you
15 enter there is a room, the front entrance part
16 where the nurse's desk is, and then the restroom is
17 in the back.

18 Q. Okay. So A.C. or any other -- well, let's say A.C.
19 A.C. would come in to use the bathroom, he would
20 sign in and get permission to use the bathroom; is
21 that correct?

22 A. Yes.

23 Q. Is the bathroom locked?

24 A. Not normally. It's going to be open unless someone
25 is in it.

1 Q. And if there are other people in the room that the
2 nurse is dealing with, A.C. will have to wait to
3 sign in to get permission; is that correct?

4 A. I'm not sure of the procedure. I don't know if he
5 can sign in, go through. I don't know. I don't
6 know what the nurse has him do, but.

7 Q. Are you aware, looking at the map that is on page
8 14 of Exhibit 2 where A.C. has his classes at the
9 current time?

10 A. I do not know. I know A.C. is in the band. And
11 then the other classes I'm not, I would not, I'm
12 not sure of.

13 Q. Okay. We can find out.

14 A. I can tell you that open area is a courtyard, and
15 those doors are open. There is a fence so
16 students, people can't get in and can't get out,
17 that lines up against the road. So those students
18 are allowed to go in and out of that. So they go
19 outside, go back and forth using the courtyard
20 during the day.

21 Q. And by open area you mean, for instance, the area
22 between, for instance, classroom 12 and classroom
23 31, that rectangular area?

24 A. Yeah. I think you were talking about door 17. You
25 see door 17, door 18, 20. Those doors are open.

1 Door 20 is open, 18 is open, 17 is open, and
2 students can go through there.

3 Q. And you said that you knew that the one class or
4 activity that A.C. had was band, and that would be
5 in 28; is that correct?

6 A. Yes.

7 Q. Okay. Now, aside from the restroom in the nurse's
8 office, are there other unisex one-person restrooms
9 at the Wooden School that are available for
10 students to use?

11 A. Yes. In the front there are family restrooms.

12 Q. Where are they?

13 A. If you go to the gym -- it's not a very good
14 picture. If you go to where you see D9, door 9,
15 where the gym is --

16 Q. Yes.

17 A. -- up front there, those are family restrooms
18 there. And then you see a restroom marked red
19 there in the corner by door 8. But then there's
20 two family restrooms right there. You can see them
21 by door 10. Those are family restrooms.

22 Q. And I imagine those are there primarily for when
23 persons not associated with the school are
24 attending activities at the gym; is that correct?

25 A. That or students that may need to use those. We

1 allow students to use those.

2 Q. Are students allowed to use those freely during the
3 day, or are they only there at certain times?

4 A. Well, they have to ask. Not freely. They have to
5 have permission.

6 Q. So most students are going to be using the
7 restrooms marked as GR or BR throughout the school;
8 correct?

9 A. Well, I said that the family restrooms marked there
10 by door 10, they would have to have permission to
11 use that. Now, you see by D8, those are ones that
12 would be open as well, that would not be open. Of
13 course, the locker rooms, I think you can, if I
14 look and see, yeah, the lower says locker, those
15 are restrooms in there as well.

16 Q. Okay. Now, you said the restrooms by door 8, those
17 are also things that students would need permission
18 to use; is that correct?

19 A. No, no. Those are open. I say permission. They
20 would ask the teacher. If they are in gym class,
21 they would ask the teacher to use that restroom.

22 Q. But if they are going through their four minute
23 passing period, they are not supposed to be
24 wandering so far afield in those restrooms; is that
25 correct?

1 A. Probably should not be up there. Not saying it
2 hasn't happened, but they are not to be up there.
3 They are usually, if they are playing in the gym
4 and there is an emergency, they can go use those.
5 And those doors are not locked.

6 Q. But the option that has been offered to A.C. has
7 been to use the nurse's restroom in the clinic; is
8 that correct?

9 A. Correct.

10 Q. Okay. So at page 23 there is an email trail.
11 Looking at the first email, which is at the bottom,
12 which always confuses me, but do you see that email
13 on October 25 at 12:36 from Marissa Heinz?

14 A. What page number?

15 Q. 23.

16 A. I'm only going to page 22.

17 Q. Well, unfortunately that means we win the case.

18 A. Okay. I see it here. I found 22, and then it
19 carries over to 23.

20 Q. That's how numbers work.

21 A. I gotcha.

22 Q. Do you see the email at the first entry, the very
23 bottom?

24 A. The email to me?

25 Q. Yes, from Marissa Heinz.

1 A. Yes.

2 Q. That's your initial contact from GenderNexus,
3 talking about concerns that A.C. and his mom had;
4 is that correct?

5 A. Yes.

6 Q. Had you ever heard of GenderNexus before receiving
7 this email?

8 A. No.

9 Q. And so you responded promptly in the email right
10 above, reaching out to her, saying that you have a
11 social worker, and you also have an Adult and Child
12 worker, and you'd be happy to set up a meeting;
13 correct?

14 A. Yes.

15 Q. And that social worker that you're talking about is
16 Mr. Reynolds; is that correct?

17 A. Yes.

18 Q. And you're saying here, I know Mr. Reynolds sees
19 A.C. on a regular basis regarding school and
20 personal issues.

21 A. Yes.

22 Q. And what knowledge do you have about Mr. Reynolds
23 seeing A.C. on a regular basis?

24 A. Well, I don't have any privilege to the
25 conversations. Those are private conversations.

1 But Mr. Reynolds' office is in the front office, so
2 I would see A.C. check in to see Mr. Reynolds.

3 Q. Okay. Do you know if A.C. was talking to
4 Mr. Reynolds about issues concerning his status as
5 a transgender youth?

6 A. I would not know that. That's, you know, that's
7 privileged information between a social worker,
8 counselor, and the student.

9 Q. Okay. And it looks like from the Exhibit 2, going
10 up to the front now, pages 3 through 6 --

11 A. Okay.

12 Q. -- it looks like the meeting was held on
13 November 3, I guess a Zoom meeting on November 3.

14 A. Okay.

15 MR. ZIMMERLY: State that again, please.

16 MR. FALK: There are email trails from 3 to 6.

17 MR. ZIMMERLY: Okay.

18 Q. And it's my understanding that from the school's
19 side that you did not attend that meeting; correct?

20 A. No, I did not.

21 Q. But Mr. Reynolds did and also Ms. Mann from Adult
22 and Child; correct?

23 A. Correct. And there was an intern, who has been
24 interning in our building, that was sitting in on
25 that with Mr. Reynolds.

1 Q. That's a social work intern?

2 A. Social worker intern.

3 Q. Okay. And it's my understanding from talking to
4 M.C., A.C.'s mom, that during the meeting things
5 were discussed, and Mr. Reynolds said he would have
6 to check with the higher-ups, or something along
7 those lines. And he actually then checked in with
8 you; is that correct?

9 A. Correct.

10 Q. You are a higher-up; correct?

11 A. Well, unfortunately sometimes.

12 Q. So it looks like from the email on page 6, where
13 Mr. Reynolds checked in with you, that A.C. asked
14 to use the boys restroom and that he be able to
15 participate in a boys sport, which I think is
16 soccer; correct?

17 A. Yes.

18 Q. And that he asked to be referred to by male
19 pronouns and male first name, and there was some
20 discussion as to adjusting the Skyward system to
21 accommodate that; correct?

22 A. I'm not sure about the, at that point we discussed
23 Skyward. I know I had numerous conversations with
24 the stepdad what would have to be done as far as
25 Skyward, but I'm not sure Mr. Reynolds and I

discussed Skyward. I think we just focused on the three points you just mentioned.

3 Q. And Mr. Reynolds raised the possibility that there
4 be an accommodation for A.C. to use the boys
5 bathroom until a formal position from our school
6 district is determined. I'm just reading.

7 A. Where are you reading that? I don't think he said
8 that --

9 Q. I'm on page 6, the end of the second paragraph.

10 A. He said this is what the parents are requesting.

11 Q. Okay.

12 A. Not that Mr. Reynolds said. This is what they are
13 requesting.

14 Q. Okay.

15 A. Right?

16 Q. I don't know.

17 A. Mr. Reynolds never said that. I'm reading this as
18 this is what the parents are requesting, to use the
19 boys restroom.

20 Q. And had A.C. been out of school? It says something
21 about requesting so he can feel comfortable to
22 return to school. Had he been out of school prior
23 to this meeting that you know of?

24 A. Not that I know of. That doesn't mean he didn't
25 miss a day here and there.

1 Q. And at that point you got this from Mr. Reynolds,
2 and in formulating a response, did you talk to
3 anyone?

4 A. No.

5 Q. Now, prior to this time was A.C. using the restroom
6 in the health clinic to the best of your knowledge?

7 A. I would say so, yes. I've got records of that
8 taking place. And I know one, the stepdad, I think
9 he was also, I can't speak for sure, was using a
10 female restroom, because the stepdad called me one
11 time upset because due to vandalism we shut down a
12 restroom. He was upset that we had shut down a
13 restroom.

14 I said, well, we had vandalism. The
15 custodians are cleaning it up. He asked where the
16 kids are supposed to go. I said the nurse's
17 restroom is right next to that. I said the other
18 restroom is only 200 feet from this restroom. I
19 assume he was using a female restroom at that
20 point, but I don't know for sure.

21 Q. Are you aware of A.C. ever using the boys restroom
22 at Wooden Middle School?

23 A. On the day, I believe it was the 22nd, I was not in
24 the building. I was at conference and got an email
25 from a teacher, and then Mr. Reynolds had called me

1 and told me what had taken place.

2 Q. That was November 22?

3 A. Yeah, November 22, just the week before our
4 Thanksgiving week. So Monday I was out of the
5 building.

6 Q. Okay. We'll get to that in a second. So going
7 back to page 3 of Exhibit 2, the very top email is
8 Doug Reynolds reporting back to the people at
9 GenderNexus what the decision was. Do you see
10 that?

11 A. Yes.

12 Q. And, again, point A is use the health clinic
13 bathroom. Point B, recognizing that the health
14 clinic bathroom may be more remote from classes, to
15 allocate more time for A.C. to go back and forth.
16 Is that fair?

17 A. Yes.

18 Q. And the reason you have to do that is, I assume, if
19 you're late for class, that's something you get in
20 trouble for?

21 A. Yes.

22 Q. But A.C. is given permission, to the extent
23 necessary to go back and forth, to be late for
24 class; is that correct?

25 A. Yes.

1 Q. And that's going to happen sometimes just because
2 where his class is and where the health clinic
3 bathroom is; correct?

4 A. Yes, it could.

5 Q. Okay. And you say our teachers are trained to have
6 a growth mindset. You mentioned that before. And
7 you mention that, I believe, in the context of
8 saying that your teachers have been instructed now
9 to call A.C. by his male first name, chosen male
10 first name, as well as by male pronouns. Is that
11 correct?

12 A. Yes. We have done that even when I was assistant
13 principal, but that's something we've done. The
14 growth mindset is just that we make mistakes.

15 In numerous phone calls with the stepdad I've
16 had to correct him about him using the wrong
17 pronouns. And I explained to him, I said, see, we
18 all make this mistake.

19 So that's what we use, growth mindset, so
20 that, and we apologize, and we don't mean to do it.
21 But that's what that means, growth mindset. We're
22 going to get better.

23 Q. Okay. And it also indicates you adhere to the
24 IHSA guidelines, which we discussed.

25 A. Yes.

1 Q. And I should not have thrown around initials so
2 quickly. IHSAA, that we've been using throughout,
3 stands for Indiana High School Athletic
4 Association; correct?

5 A. Correct.

6 Q. And it appears from a note on page 6 that
7 Mr. Reynolds also left this message on M.C.'s,
8 A.C.'s mom's phone; is that correct?

9 A. I believe so, yes.

10 Q. And are you aware that Mr. Reynolds also indicated
11 that if A.C. wanted to, he could be educated at
12 home with online schooling?

13 A. Yes, I believe there was something -- I'm not sure
14 what the actual conversation was. And we have
15 different options for all students, if that's
16 something that someone wants to pursue. We prefer
17 them in person, but we accommodate all students.

18 Q. And aside from the emails that we have here, was
19 any of this memorialized in writing?

20 A. As far as what?

21 Q. As far as what was discussed in the meeting with
22 GenderNexus, and what decision was made concerning
23 how to deal with accommodations for A.C., is any of
24 that in writing other than the emails that we have
25 here?

1 A. Not that I know of.

2 Q. And you are aware, you alluded to in response to a
3 question, that at least on one occasion after this
4 November 3 meeting A.C. used the boys restroom; is
5 that correct?

6 A. Yes.

7 Q. And this, you found out about this because there
8 was a teacher who saw A.C. using the restroom;
9 correct?

10 A. Well, the teacher was using the urinal, and
11 evidently A.C. had walked out, and shot me an
12 email.

13 Q. The teacher shot you an email?

14 A. Yes.

15 Q. Did you get any emails or complaints from anyone
16 else other than the one teacher who saw him in the
17 restroom at that time?

18 A. No. Well, I take that back. I believe, and I
19 can't, I think our choir teacher might have said
20 that she had seen that as well. But I don't
21 recall. I think she told me that. And that's down
22 there by that restroom, the band room and the choir
23 room.

24 Q. Which restroom was that, if you know, looking at
25 the map?

1 A. That would have been down by the band room.

2 Q. Okay. The band room being number 28 that we
3 discussed. It looks like right across the hall
4 there's a boys room and a girls room.

5 A. Yes.

6 Q. But you didn't get any complaints from students
7 concerning A.C. using the restroom?

8 A. No.

9 Q. You've never gotten any complaints from students
10 about A.C. using the restroom?

11 A. Not complaints, no. We've had issues, but not
12 complaints.

13 Q. What kinds of issues have you had?

14 A. Well, I don't know how many you want me to go into,
15 but different issues. We've had some discipline
16 issues where there was some, A.C. was involved in a
17 fight, slapped a student. You know, some of those
18 things. But as far as the complaining about that
19 part, no.

20 Q. Nothing about the restrooms?

21 A. No.

22 Q. Thank you. And so A.C. was sent to the office on
23 November 22; correct?

24 A. What page is that? Is that on the day that he used
25 the restroom earlier?

1 Q. Yes. I'm just asking.

2 A. I think he was called down, and Mr. Reynolds talked
3 with him. I'm not sure. I wasn't in the building.
4 I think Mr. Reynolds had talked with him.

5 Q. Okay. And I believe A.C. reports that he was told
6 that if he used the boys restroom again, he would
7 be punished.

8 A. Well, on that one, I instructed them to let him
9 know don't let this happen again. There could be a
10 consequence.

11 Q. Right. I looked at your student handbook, and
12 there is a disciplinary offense for
13 insubordination, failure to follow instructions,
14 defiant attitude. This would fall under that, if
15 he disobeyed; correct?

16 A. Yes.

17 Q. And that's subject to progressive discipline;
18 correct?

19 A. What do you mean progressive discipline?

20 Q. It looks like in the handbook the first time you do
21 it, something happens, the second time something
22 worse happens, the third time something worse.

23 A. Yes.

24 Q. It could lead to expulsion theoretically; correct?

25 A. Yes.

1 Q. And did Mr. Reynolds talk to A.C.'s stepfather that
2 day and relay the fact that he had been instructed,
3 A.C. had been instructed that he could not use the
4 restroom, boys restroom, and would be punished if
5 he did?

6 A. Yes. I believe he was on the line, became very
7 belligerent, and I believe they cut the
8 conversation off.

9 Q. The stepfather became belligerent?

10 A. Yes.

11 Q. And then it's my understanding that you actually
12 spoke to A.C. at some point, I think after the
13 Thanksgiving holiday, to reiterate that he was
14 expected to use the girls restroom or the clinic;
15 is that correct?

16 A. Yes, yes, sir.

17 Q. Was that just to reinforce what he had been told by
18 Mr. Reynolds?

19 A. Well, I just wanted to call and see, or bring him
20 down, see how he was doing, and just go from that
21 standpoint and then talk to him about what our
22 expectations are and what, how we would move
23 forward is what we believed, what we were doing at
24 this time.

25 He did ask me why he couldn't. I said, well,

1 one of the things that this deals with is it
2 involves other students. It involves other
3 parents. It's ultimately a decision that's going
4 to be above me. I said this will eventually be a
5 school board decision.

6 And my other comment is that's why we have
7 election of school boards. They are the ones who
8 eventually have these discussions and make these
9 decisions. It's above my pay grade. I didn't say
10 that, but just a bigger decision.

11 Q. Have you been in discussion with any other school
12 systems that have transgender students using
13 bathrooms that are consistent with their gender
14 identity, but differ from their sex at birth?

15 A. No, I haven't.

16 Q. And are you aware that other school systems do
17 allow this, aside from Martinsville?

18 A. Yes, I am aware of that.

19 Q. At the very first page of Exhibit 2 there is a
20 reference to A.C. being suspended for three days
21 after, I assume, a fight.

22 A. Yes.

23 MR. ZIMMERLY: I'm sorry to interrupt. I
24 thought you said page 2.

25 MR. FALK: Page 1.

1 MR. ZIMMERLY: I'm sorry.

2 MR. FALK: Have you got it, Phil?

3 MR. ZIMMERLY: Yes.

4 Q. So he was suspended in early December, it looks
5 like, for three days?

6 A. Yes.

7 Q. And along with these documents there was like a
8 four minute snippet of a camera, of a movie taken
9 by a camera in what looks like a stairway.

10 A. Yes.

11 Q. And there was an incident around the 40 second mark
12 where it looks like something happens, although
13 very quickly. Is that the incident that led to the
14 suspension?

15 A. Yes.

16 Q. And where was that?

17 A. In the stairwell.

18 Q. Going up to the upper gym?

19 A. Yes. The kids were going down. The kids, we were
20 spread out at three different locations for lunch.
21 We have approximately 80 students that eat
22 upstairs. We have now gone back to one, but eat
23 upstairs. We have tables for them, a little more
24 spread out. And then they go downstairs, and they
25 can play in the gym for 15 minutes while their

lunch period ends, play basketball, volleyball, dodgeball. And then on the way down the stairs is where this issue happened.

4 Q. Okay. And did you investigate this incident before
5 the suspension?

6 A. Yes. I had, A.C. had come down and first said that
7 he was sexually assaulted, which immediately we ask
8 for a police officer. I took a statement. He told
9 me what happened. So then I sent him out in the
10 office. Then as I got the cameras out and
11 checking, looking at the cameras, A.C. then poked
12 his head in and said I'm going home. I said okay,
13 if someone is going to pick you up, we'll go with
14 that then. But while we're going through this, let
15 me check the cameras.

16 I believe A.C.'s stepfather came to pick him
17 up because A.C. did not sign out. And then we
18 looked at the situation and determined what A.C.
19 said happened was not what happened.

20 Q. I note that in the email from Morgan Settle,
21 Exhibit 2, page 1, she refers to A.C. as her. Do
22 you see that? I overheard a couple of students and
23 A.C. talking about her suspension?

24 A. Yes.

25 Q. And that's something that you're trying to stamp

1 out specifically with regard to A.C.; correct?

2 A. Yes. That's what we talk about all the time. Got
3 to correct it.

4 MR. FALK: I'm going to ask for a break now
5 because I just have a little bit more. I want to
6 talk to my co-counsel, if I could.

7 MR. ZIMMERLY: That's fine. Do you want to
8 say five minutes? Come back at 2:37?

9 MR. FALK: I'll give it my best shot.

10 MR. ZIMMERLY: Thanks.

11 (A recess was taken.)

12 BY MR. FALK:

13 Q. Before our break we talked about briefly the
14 discipline that was imposed upon A.C. for a fight
15 in early December. He had apparently alleged that
16 someone had sexually assaulted him. On page 1 he
17 says, "He touched my ass, so I beat his ass." What
18 did your investigation show as to what happened?

19 A. Well, we allowed the police officers to look at the
20 video. That's the first thing we do is always get
21 a hold of the police.

22 The video showed a couple of larger
23 middle-schoolers. I don't know if they were
24 eighth-graders. There was, oh, A.C. and another
25 student were walking on the stairs, just kind of

1 moseying along. They weren't in a hurry. So a
2 couple of other students went around them. And
3 then this little guy was, you know, I'll bet he was
4 4'2", 60 pounds, he's got his football and his
5 lunch box, carrying it, and he just wants to get to
6 recess. He was carrying it, goes through.

7 You'll see on the video where A.C. reaches,
8 pulls him down and just started punching him in the
9 face, which he admitted to doing that in my office.

10 And it was determined there was no intent of
11 sexual assault. It was just trying to get through.
12 And A.C. took offense to it and assaulted that
13 student.

14 Q. Okay. So the student he assaulted did not get into
15 trouble, I assume?

16 A. No. He did not throw, in bringing him in, he
17 didn't throw any punches. And I asked him, I said
18 why didn't you fight back? And his quote was
19 "Because I don't hit girls." So he had identified
20 A.C. as a female, but he took a whooping.

21 Q. And A.C. got a three-day suspension. That's
22 correct?

23 A. Yes, three days for fighting.

24 Q. Did the other student say that he could have
25 touched A.C.'s butt as he pushed through?

1 A. He said that he did it. But on the video it looks
2 like, it doesn't look like he does. And then other
3 witnesses said they did not see that as well. They
4 did not see that at all. The person that A.C. was
5 walking with did not see anything. And this is
6 another transgender student who came in and said
7 that, he's the one that said that A.C. didn't even
8 say anything about that. He just started wailing
9 on the kid.

10 Q. So I'm at the point where I just want to
11 recapitulate so I know where we are. You are
12 basically asking that A.C. present to you as much
13 medical evidence that he has concerning his
14 condition and the treatment he's getting. If he
15 presents you with that information, will you then
16 take that to the superintendent, or will you then
17 decide whether or not he can use the male restroom?

18 A. I would give that to the superintendent and say,
19 you know, here's my recommendation of the criteria,
20 the standards that -- I don't know if you want me
21 to rehash it -- that we'd like to see met. I could
22 honestly say, yes, I believe they met it. I'd say
23 that's just my recommendation. I can't make the
24 decision for them.

25 Q. And in the cases that we talked about at the high

1 school where transgender kids are using bathrooms
2 associated with their gender identity that differ
3 from their sex at birth, were those principal
4 decisions, superintendent decisions, or board
5 decisions, the ultimate decision?

6 A. I would say it's done at a, I can't speak for them,
7 but a case-by-case basis at a building level.

8 Q. Because you had mentioned board involved before,
9 but this issue could be decided without going to
10 the board? Is that your understanding?

11 A. This situation with the middle-schoolers, no. That
12 would be something that the superintendent would
13 make a recommendation. I would, I don't want to
14 assume, give you my opinion, but I think the board
15 would want to be involved with this.

16 Q. But not with high school?

17 A. I can't speak. They were not involved in that one.

18 Q. All right. Why do you think they would be involved
19 in this one?

20 A. Well, going back to the maturity of the students,
21 the difference between a high school student and a
22 middle school student. Like I said, I was at the
23 high school for many years. The middle school,
24 going back to the maturity level, and I would
25 assume, again, going back, that that's why I would

1 think they would be involved in this.

2 Q. But no matter what, you would first go to the
3 superintendent. And he or she, I don't know if
4 it's a he or she -- I apologize -- he or she would
5 then make a determination as to whether it should
6 go higher than that, to the board?

7 A. Yes.

8 MR. FALK: Off the record for a second.

9 (Off the record).

10 MR. FALK: Okay. Back on the record.

11 Q. Are you aware of other decisions concerning
12 individual students that are taken to the board?

13 A. What do you mean?

14 Q. Well, you're saying that you suspect that if you
15 recommend that A.C. use the male restrooms, and if
16 that goes to the superintendent, that he or she may
17 take it to the board. And I'm wondering how usual
18 it is for the board to get involved in decisions
19 involving individual students, aside from student
20 discipline cases where they might get involved.

21 MR. ZIMMERLY: I'm just going to note, I don't
22 know if this is an objection or not, but we're kind
23 of running afield from the 30(b)(6) topics. You
24 are kind of asking for Mr. Kutruff, including the
25 line of questioning that we're on, to kind of opine

1 to things that I don't know as a 30(b)(6) witness
2 and the notice are really within his realm of
3 knowledge. He has made a number of assumptions up
4 until this point.

5 Q. Okay. If you know. And if not, we'll drop it.

6 A. I do not know that.

7 MR. FALK: Okay. I have no further questions.

8 EXAMINATION,

9 QUESTIONS BY MR. ZIMMERLY:

10 Q. Phil Zimmerly here, Mr. Kutruff, I just have one
11 clarifying question. With regard to A.C., A.C.
12 does have the option of using the health restroom;
13 is that true?

14 A. Yes.

15 Q. But A.C. also still remains, the option still
16 remains for A.C. to use the girls restroom at this
17 time as well; is that true?

18 A. Yes.

19 MR. ZIMMERLY: That's all I have. Thanks,
20 everyone. So we'll reserve rights. We'll get
21 signature. That would be great.

22 AND FURTHER DEPONENT SAITH NOT

23

24

25

Fred Kutruff

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

I, Kathleen Andrews, Notary Public in and for said county and state, do hereby certify that the deponent herein was by me first duly sworn to tell the truth in the aforementioned matter;

That the deposition was taken on behalf of the Plaintiff at the time and place heretofore mentioned, with counsel present as noted.

That the deposition was taken down in Stenograph notes, reduced to typewriting under my direction, is a true record of the testimony given by said deponent, and was thereafter presented to the deponent for signature.

That this certificate does not purport to acknowledge or verify the signature hereto of the deponent.

I do further certify that I am a disinterested person in this cause of action; that I am not a relative or attorney of any of the parties or otherwise interested in the event of this action, and am not in the employ of the attorneys for the respective parties.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this _____ day of _____, 2022.

Kathleen Andrews, Notary Public

Commission expires: March 22, 2023.
County of residence: Hamilton.



Doug Reynolds <doug.reynolds@msdmartinsville.org>

Response from Martinsville Schools

4 messages

Doug Reynolds <doug.reynolds@msdmartinsville.org>
To: Marissa Heinz <marissa@gendernexus.org>

Wed, Nov 3, 2021 at 12:24 PM

Marissa,

I have talked with my Principal who said that at this time we are (A) providing a bathroom in our clinic for our transgender students, (B) are willing to make accommodations for extra time for travel to and from the bathroom (C) our teachers are trained to have a growth mindset and (D) adhere to the Indiana High School Athletic Association guidelines regarding sports participation. [REDACTED] family does not have an email in Skyward so I will call them with this information.

--
Doug Reynolds

John R. Wooden Middle School
765-342-6628 ext. 3013

Doug Reynolds <doug.reynolds@msdmartinsville.org>
To: Fred Kutruff <fred.kutruff@msdmartinsville.org>, Suzie Lipps <suzie.lipps@msdmartinsville.org>

Wed, Nov 3, 2021 at 12:25 PM

[Quoted text hidden]

Marissa Heinz <marissa@gendernexus.org>
To: Doug Reynolds <doug.reynolds@msdmartinsville.org>

Wed, Nov 3, 2021 at 12:51 PM

Hi Doug,

Thank you for this information and for your promptness. I will pass this information along to Emma. Also, the email I have for [REDACTED] mom is [REDACTED]

Best wishes,
Marissa

Marissa Heinz, MSW, LSW
Pronouns: she/her, they/them
Care Coordination Director
(317) 650-5988
www.GenderNexus.org

[Quoted text hidden]

Doug Reynolds <doug.reynolds@msdmartinsville.org>
To: Marissa Heinz <marissa@gendernexus.org>

Wed, Nov 3, 2021 at 12:52 PM

Great, thank you so much! I will add the email to our Skyward.
Doug
[Quoted text hidden]



Doug Reynolds <doug.reynolds@msdmartinsville.org>

Meeting Follow-up

3 messages

Marissa Heinz <marissa@gendernexus.org>

Wed, Nov 3, 2021 at 12:41 PM

To: [REDACTED] Kari Mann <kari.mann@msdmartinsville.org>, Doug Reynolds

<doug.reynolds@msdmartinsville.org>

Cc: Emma Vosicky <emma@gendernexus.org>

Hello,

Thank you all again for meeting with us this morning. Attached are some additional school support materials I had mentioned during the meeting for your review.

Please feel free to reach out with any questions.

Best wishes,
Marissa

Marissa Heinz, MSW, LSW

Pronouns: she/her, they/them

Care Coordination Director

(317) 650-5988

www.GenderNexus.org

4 attachments

School Gender Support Plan (3) copy 2.pdf
1203K

ACLU - Student's Rights for Gender Diverse Folks.pdf
49K

Framework for Gender Inclusive Schools.pdf
741K

Gender Inclusivity Assessment (3).pdf
906K

Doug Reynolds <doug.reynolds@msdmartinsville.org>

Wed, Nov 3, 2021 at 12:46 PM

To: Marissa Heinz <marissa@gendernexus.org>

Cc: [REDACTED] Kari Mann <kari.mann@msdmartinsville.org>, Emma Vosicky

<emma@gendernexus.org>

This is great, thank you!

Doug Reynolds

[Quoted text hidden]

--

Doug Reynolds

John R. Wooden Middle School
765-342-6628 ext. 3013

Kari Mann <kari.mann@msdmartinsville.org>

Wed, Nov 3, 2021 at 1.09 PM

To: Doug Reynolds <doug.reynolds@msdmartinsville.org>

Cc: Marissa Heinz <marissa@gendernexus.org>, [REDACTED]

Emma Vosicky

<emma@gendernexus.org>

[REDACTED], if you want to send me your email, I'll send over the consents.

Kari Mann
MSEd, LMHCA
Adult & Child
(463) 222-7548

On Nov 3, 2021, at 12.46, Doug Reynolds <doug.reynolds@msdmartinsville.org> wrote:

[Quoted text hidden]



Doug Reynolds <doug.reynolds@msdmartinsville.org>

Request for clarification on gender policy

1 message

Doug Reynolds <doug.reynolds@msdmartinsville.org>

Wed, Nov 3, 2021 at 10:39 AM

To: Fred Kutruff <fred.kutruff@msdmartinsville.org>, Kari Mann <kari.mann@msdmartinsville.org>

Cc: Marissa Heinz <marissa@gendernexus.org>

Mr. Kutruff,

I have had the experience of a zoom meeting with [REDACTED] his family and Gender Nexus regarding our school's support for our students who identify as transgender. Gender Nexus is going to seek information from other school districts how Skyward may or may not accommodate the student's use of the preferred name and gender. They are requesting that [REDACTED] have access to the boys restroom during the regular school schedule as well as access to participating in boys sports.

The immediate concern in order for [REDACTED] to return to school today or tomorrow is that there be an accommodation for [REDACTED] to use the boys bathroom until a formal position from our school district is determined. One thought is to use the boys bathroom during non-passing periods.

The parents are requesting a response ASAP regarding the possibility of this temporary accommodation so [REDACTED] would feel comfortable to return to school.

--
Doug Reynolds

John R. Wooden Middle School
765-342-6628 ext. 3013

11-3-21

Called and left a phone message with an explanation of our school policy that I shared with Marissa from Gender Nexus.



MSD Martinsville Mail: Bathroom Use per District Policy

Doug Reynolds <doug.reynolds@msdmartinsville.org>

Bathroom Use per District Policy

5 messages

Doug Reynolds <doug.reynolds@msdmartinsville.org>

To: "John R. Wooden Middle School" <JRWooden@msdmartinsville.org>, JRW Staff <jrw.staff@msdmartinsville.org>

Mon, Nov 22, 2021 at 2:13 PM

Staff,

We have a situation that you need to be aware of. As you know, we have several students who identify differently from their birth sex. Our district policy that is backed up by our state rules say that the student still needs to use the restrooms of their birth sex or use the clinic bathroom. They are also allowed extra time to use the clinic bathroom if the classroom is furter away that the bathroom of their birth sex.

One or more of our transgender students have used the restroom of their chosen identity and not of their birth sex. If a student identifies as transgender and needs to use the restroom during class, please let the front office know so we can check the cameras to make sure the correct bathroom was used.

While this may be a difficult topic, we want all of our students to feel welcome and safe including our transgender students while we also follow Indiana law.

Doug ReynoldsJohn R. Wooden Middle School
765-342-6628 ext. 3013

Lisa O'Neal <lisa.oneal@msdmartinsville.org>

To: Doug Reynolds <doug.reynolds@msdmartinsville.org>

Mon, Nov 22, 2021 at 2:20 PM

Great email!

[Quoted text hidden]

--

Lisa O'Neal
John R. Wooden Middle School
Guidance Counselor

Jayne Mertz <jayne.mertz@msdmartinsville.org>

To: Doug Reynolds <doug.reynolds@msdmartinsville.org>

Mon, Nov 22, 2021 at 2:21 PM

Very good Douglas!

Redacted

Thanks, Jayne

On Mon, Nov 22, 2021 at 2:13 PM Doug Reynolds <doug.reynolds@msdmartinsville.org> wrote:

[Quoted text hidden]

--
Jayne E. Mertz, Guidance CounselorJohn R. Wooden Middle School
109 E. Garfield Street
Martinsville, IN 46151

765-342-6628 ext. 3074

Doug Reynolds <doug.reynolds@msdmartinsville.org>
To: Jayne Mertz <jayne.mertz@msdmartinsville.org>

Mon, Nov 22, 2021 at 2:40 PM

Redacted

Doug

[Quoted text hidden]

--

[Quoted text hidden]

Jayne Mertz <jayne.mertz@msdmartinsville.org>
To: Doug Reynolds <doug.reynolds@msdmartinsville.org>

Tue, Nov 30, 2021 at 2:26 PM

Thanks!

[Quoted text hidden]



Doug Reynolds <doug.reynolds@msdmartinsville.org>

Bathroom Use Policy

2 messages

Doug Reynolds <doug.reynolds@msdmartinsville.org>
To: Fred Kutruff <fred.kutruff@msdmartinsville.org>

Mon, Nov 22, 2021 at 1:22 PM

Fred, This is a draft of what I would like to send out to all our teachers. Let me know your thoughts.

Staff,

We have a situation that you need to be aware of. As you know, we have several students who identify differently from their birth sex. Our district policy that is backed up by our state rules say that the student still needs to use the restrooms of their birth sex or use the clinic bathroom. They are also allowed extra time to use the clinic bathroom if the classroom is further away than the bathroom of their birth sex.

One or more of our transgender students have used the restroom of their chosen identity and not of their birth sex. If a student identifies as transgender and needs to use the restroom during class, please let the front office know so we can check the cameras to make sure the correct bathroom was used.

While this may be a difficult topic, we want all of our students to feel welcome and safe including our transgender students while we also follow Indiana law.

If you have any questions, please feel free to talk to Fred because he knows more about this topic than any other and would love to discuss this in length.

Doug Reynolds
John R. Wooden Middle School
765-342-6628 ext. 3013

Fred Kutruff <fred.kutruff@msdmartinsville.org>
To: Doug Reynolds <doug.reynolds@msdmartinsville.org>

Mon, Nov 22, 2021 at 1.46 PM

I like it, you can send it out!

Thanks, FK

Sent from my iPhone

On Nov 22, 2021, at 1:23 PM, Doug Reynolds <doug.reynolds@msdmartinsville.org> wrote:

[Quoted text hidden]

Left email message with our school response regarding transgender access to bathrooms. sports participation and that our staff is trained on having a growth 11/3 mindset.

Student Emergency Information

Student: [REDACTED]

[Back](#)

Alert Information

 This Student Has Critical Alert Information Display in Family Access Display in Student Access

Alert Information: Student goes by [REDACTED]



Anxiety



[REDACTED] is not allowed to see or have any

Provider Information

Physician: [REDACTED] [REDACTED]

Phone: [REDACTED]

Dentist: [REDACTED] [REDACTED]

Phone: [REDACTED]

Hospital: [REDACTED] [REDACTED]

Phone: [REDACTED]

Insurance: [REDACTED] [REDACTED]

Phone: [REDACTED]

Policy Number: [REDACTED]

SEWARD

EDUCATION (1)

Home Students Families Staff Student Services Office Administration Educator Access Plus Advanced Features Federal/State Reporting

Emergency

Student: [REDACTED] Ranges Add

Grad Year (Grade): 2027 (07) DOB (Age): [REDACTED] (13) Entity, School, Status: 201, WDN, A Default: 201, WDN, A

Customize

Gender: F NY Status: A Other ID: [REDACTED] Phone: [REDACTED] Mtd of Instr: [REDACTED]

Emergency Information

Alert Information

This Student Has Critical Alert Information
 Display In Family Access Display In Student Access

Alert Info: Student goes by [REDACTED]

Anxiety

[REDACTED] is not allowed to see or have any contact with [REDACTED] user

Provider Information

Physician: [REDACTED]
Dentist: [REDACTED]
Hospital: [REDACTED]
Insurance: [REDACTED]
Policy Number: [REDACTED]

BB Emergency Information

Views: General Filters: *Skyward Default

#	Contact Name	Relationship	Primary Phone	Second Phone	3rd Type	3rd Phone	3rd Type	Allow Pick Up	Ornate Back
1	[REDACTED]	MOTHER	[REDACTED]					Yes	No
2	[REDACTED]	STEPFATHER	[REDACTED]					Yes	No
3	[REDACTED]	AUNT	[REDACTED]					Yes	No

Add Edit Delete Replace Move Up Move Down

20 3 records displayed

WOODEN MIDDLE (24)

SKYWARD

Home Students Families Staff Student Services Office Administration Educator Access Plus Advanced Features Federal/State Reporting

Profile Tab

Customize Tabs Attendance General Profile Identity Address Birth Hist School Path Vehicles Web Access Family Emergency Emer Info Entry/With Scheduling Current Future Grades Test Scores Locker Lockers Locks Categories District Entity Portfolio *Attachments Enrollment Discipline Offenses Demerit Hist Entity Entity Info GPA GPA Summary Current Historical

Student: [REDACTED] Ranges Add

Grad Year (Grade): 2027 (07) DOB (Age): [REDACTED] (13) Entity, School, Status: 201, WDN, A Default: 201, WDN, A

Customize Gender: F NY Status: A Other ID: 278417 Phone: [REDACTED] Mtd of Instr: [REDACTED]

Profile

Grade Information

Grad Yr/Grade: 2027 07 Advance: No GLO: [REDACTED] Retain: No Graduated: No Graduation Date: [REDACTED] ASC Graduate: No

NY Grad Year: 2027 Grad Req Base Yr: 2027 Diploma Type: [REDACTED] Diploma Level: [REDACTED]

Entered 9th Grade: [REDACTED]

General Information

Date of Birth: [REDACTED] Age: 13 Gender: Female Spec Ed: No Ancestry: [REDACTED] Resident: Yes

Local Race: W WHITE NOT HISPANIC ORIGIN Ethnicity: [REDACTED] Hispanic/Latino Ethnicity? Federal Race: [REDACTED] 1-American Indian or Alaskan Native [REDACTED] 2-Asian [REDACTED] 3-Black or African American [REDACTED] 4-Native Hawaiian or Other Pacific Islander [REDACTED] 5-White

Race/Eth Verf: Individual Student On: 06/03/2014 Transported: No Other ID: [REDACTED] Conv. Key: [REDACTED]

Language: E ENGLISH Mom's Maiden: [REDACTED] Library Card: [REDACTED] Other Name: [REDACTED] School Email: [REDACTED]@student.msdmartinsville.org Home Email: [REDACTED] Third Phone: [REDACTED]

Second Phone: [REDACTED] Override Student's Off Campus Lunch Eligibility [REDACTED]

Distribute Student Demographic Information For [REDACTED]

Military: Yes Higher Ed: Yes Public: Yes District: Yes Local: Yes

Quick Print

Edit

Gen Notes (0)

All Notes (3)

***Chg. Log**

To: Mayes, Jonathan L [jimayes@boselaw.com]; Zimmerly, Philip [pjzimmerly@boselaw.com]; Wohlford, Mark A.[mwohlford@boselaw.com]; Suzie Lipps [suzie.lipps@msdmartinsville.org]
From: Fred Kutruff
Sent: Tue 01/11/2022 9:53:42 PM UTC
Subject: Fwd: Supporting Gender-Diverse Students
Received: Tue 01/11/2022 9:54:24 PM UTC

Redaction

----- Forwarded message -----

From: **Marissa Heinz** <marissa@gendernexus.org>
Date: Mon, Oct 25, 2021 at 2:18 PM
Subject: Re: Supporting Gender-Diverse Students
To: Fred Kutruff <fred.kutruff@msdmartinsville.org>
Cc: Doug Reynolds <doug.reynolds@msdmartinsville.org>, Kari Mann <kari.mann@msdmartinsville.org>

Hi Mr. Kutruff,
Thank you so much for the information and for the introductions.

Mr. Reynolds and Ms. Mann, please let me know what days and times might work best for you to meet via Zoom, and I will set something up.

Thank you all!
Marissa

Marissa Heinz, MSW, LSW
Pronouns: she/her, they/them
Care Coordination Director
(317) 650-5988
www.GenderNexus.org

On Mon, Oct 25, 2021 at 12:52 PM Fred Kutruff <fred.kutruff@msdmartinsville.org> wrote:

Hi Marissa,
Thank you for reaching out to me. We have a social worker that is assigned to our school that is specifically trained and works with all students as well as transgender students. We also have Adult and Child that specifically counsels our students in need. I will cc Mr. Reynolds and one of our therapist, Kari Mann from Adult and Child. Feel free to set something up with them and see what dates are available. I know Mr. Reynolds sees [REDACTED] on a regular basis regarding school and personal issues. I look forward to hearing from you.

Sincerely, FK

On Mon, Oct 25, 2021 at 12:36 PM Marissa Heinz <marissa@gendernexus.org> wrote:

Mr. Kutruff,

My name is Marissa Heinz, and I am a social worker at GendeNexus and IU Health's Gender Clinic working to support one of your students [REDACTED] and his mom, [REDACTED]

[GenderNexus](http://GenderNexus.org), based in Indianapolis, provides services, supports, and resources for the gender-diverse community and their loved ones in order to empower them to lead healthy, authentic and joyful lives. One of those supports is to act as a resource and training hub for schools so that they can knowledgeably pursue the steps needed to promote their student's social, emotional, and academic success.

If possible, we would love to pull together a team meeting via Zoom with you and [REDACTED] to discuss a safety plan

Case 1:21-cv-02965-TWP-TAB Document 29-4 Filed 02/01/22 Page 90 of 90 PageID #: 256

Thank you in advance for your help.

Warm Regards,

Marissa Heinz

Marissa Heinz, MSW, LSW

Pronouns: she/her, they/them

Care Coordination Director

(317) 650-5988

www.GenderNexus.org

--

Fred Kutruff

Principal

John R. Wooden Middle School

765-342-6628 (ext-3005)

--

Fred Kutruff

Principal

John R. Wooden Middle School

765-342-6628 (ext-3005)